

### III. OPEN SPACE SUBVENTION ACT PAYMENTS

#### Open Space Subvention Act

*The Open Space Subvention Act provides for the partial replacement of local property tax revenues foregone as a result of participation in the Williamson Act and other enforceable restriction programs.*

Since the first Open Space Subvention payments made in fiscal year 1972-73, the State has distributed over \$600 million to counties and cities in support of the Williamson Act program. The \$39,242,00 claimed in subventions for 2003 is the largest since the program's inception. Also, the 16,063,648 acres reported as eligible for subvention payment in 2003 is the largest amount of eligible acreage reported since 1981.

While prime farmlands constitute one-third of statewide enrollment, they accounted for roughly 73 percent of total subventions in 2000 and 2001. Other enforceably restricted lands, including Open Space Easement lands that qualify for subvention payments, accounted for 0.1 percent of total subventions in 2000 and 2001.

Counties administered 99.9 percent of the Williamson Act acres reported for State subvention payments in 2002 and 2003. Further, 99.9 percent of the State subvention payments in 2002 and 2003 went to counties. In 2003, seven cities claimed a total of \$5,554 in subventions for 4,671 acres of contracted land.

Not all Williamson Act contracted land is eligible for subvention payment. For example, local governments generally cannot claim subventions on contracted land that is under nonrenewal or valued for property tax purposes at Proposition 13 levels. In 2000 and 2001, approximately 3 percent of the statewide enrollment was not eligible for subvention payment.

In terms of "Total Agricultural Value", the San Joaquin Valley is California's most important region. In 1999, six of California's top ten agricultural counties were San Joaquin Valley counties. The San Joaquin Valley contains about 44 percent of the total statewide Williamson Act enrollment, and accounts for 61 percent of total subventions. The already high concentration of contracted land in the San Joaquin Valley was bolstered in 2001 when Merced County began offering Williamson Act contracts to its agricultural landowners.

Cross-Reference: Appendix C (p. 50, 51)

**Top 10 Counties with the Largest Subvention Entitlement**

2002				2003			
Ranking		County	Acres	Ranking		County	Dollars
2001	2002			2002	2003		
1	1	Fresno	5,625,915	1	1	Fresno	5,716,657
2	2	Kern	5,002,271	2	2	Kern	4,960,885
3	3	Tulare	3,535,166	3	3	Tulare	3,525,513
4	4	Kings	2,975,814	4	4	Kings	2,824,621
5	5	San Joaquin	2,041,921	5	5	San Joaquin	1,983,260
6	6	Stanislaus	1,737,231	6	6	Stanislaus	1,691,748
8	7	Madera	1,462,013	7	7	Madera	1,482,950
9	8	Merced	1,356,215	8	8	Merced	1,376,478
7	9	Yolo	1,350,086	9	9	Yolo	1,296,449
10	10	San Luis Obispo	1,125,138	10	10	San Luis Obispo	1,119,345

**Open Space Subvention Act Payment Claims By Region (Dollars)\***

Region	Land Conservation Act		Farmland Security Zone				Other Eligible Open Space	Total
			Urban		Non-Urban			
	Prime	Nonprime	Prime	Nonprime	Prime	Nonprime		
Bay & Central Coast	1,186,340	2,798,437	30,866	92,497	38,002	1,596	18,215	4,165,953
Foothill & Sierra	284,364	678,439	0	0	5,825	3,616	966	973,209
North Coast & Mountain	933,574	1,411,647	4,360	0	2,170	119	392	2,352,262
Sacramento Valley	3,724,460	1,695,484	133,920	32,120	379,793	3,925	61	5,969,762
San Joaquin Valley	18,553,226	2,843,834	575,018	4,695	1,719,891	15,905	686	23,713,255
South Coast & Desert	898,048	638,533	8,610	827	916	44	40,052	1,587,031
Totals	25,580,012	10,066,374	752,774	130,139	2,146,597	25,204	60,371	38,761,471

\*Year 2001. Actual payment totals may differ slightly due to audit adjustments and/or enforcement actions

## IV. SURVEY OF WILLIAMSON ACT CONTRACTS WITHIN CITIES

### Survey Background

Cities have been administering Williamson Act contracts since the early years of the program. In fiscal year 1972-73, six cities claimed subventions payments on 27,061 acres of contracted land. Seventeen years later, twenty cities claimed subvention payments on 26,352 acres of contracted land. Currently, the combined enrollment of all the participating cities surpasses that of a few individual counties. Although the enrollment statistics for cities is modest compared to the county statistics, they are valuable nonetheless. Unfortunately, the Department's enrollment data for participating cities is not as complete as the county enrollment data. Cities that choose to not claim subventions on their contracted land are not required to submit their Williamson Act enrollment statistics to the Department. For this reason, the Department's data on city implementation of the Williamson Act is limited.

In the fiscal year 2002-03 subvention application, the Department of Conservation included a survey regarding Williamson Act participation among cities. In most cases county staff, on behalf of the participating cities in that county, completed the survey. The following seven counties did not respond to the survey: Contra Costa, Mono, Napa, Placer, Plumas, San Diego, and Tehama.

### Survey Results

Of the 44 county responses, only 10 reported having cities that administer Williamson Act contracts. These 10 counties are listed at right. At least 30 cities in California contain contracted land within their jurisdiction. These 30 cities administer over 12,211 acres of contracted land, only 7 percent of which is under nonrenewal. The prime/nonprime percentage of the 12,211 acres is 45 percent prime and 55 percent nonprime.

The 10 counties that reported having Williamson Act participating cities were asked two additional survey questions. First, they were asked if they combined city contracted acreage in their own enrollment totals. Second, if they, pursuant to Section 14110.1 of the California Code of Regulations, claimed subventions on any city contracted land. Only Humboldt County combined city-contracted acreage with their own enrollment totals and claimed subventions on that city contracted land.

### Williamson Act Cities (by county) January 1, 2002

#### *Alameda County*

Newark (2,789 acres), Fremont (3,313 acres), Livermore (939 acres), Pleasanton (30 acres), and Hayward (384 acres).

#### *Humboldt County*

Arcata (12 acres)

#### *Kern County*

Data not yet available

#### *Riverside County*

Blythe (760 acres), Coachella (375 acres), Corona (451 acres), Hemet (147 acres), Indio (19 acres), Perris (717 acres), Riverside (37 acres), and San Jacinto (1,262 acres)

#### *San Bernardino County\**

Ontario, Chino, Redlands, Yucaipa, Hesperia, and Victorville

\*City acreage data not available

#### *San Luis Obispo County*

Arroyo Grande (36 acres), Paso Robles (117 acres), and Atascadero (9 acres)

#### *Santa Clara*

Data not yet available

#### *Stanislaus County*

Modesto (62 acres), Hughson (35 acres), Patterson (17 acres), Riverbank (306 acres), and Oakdale (40 acres)

#### *Tulare County*

Visalia (324 acres)

#### *Ventura County*

Camarillo (77 acres)

## IV. SURVEY OF PROGRAM ADMINISTRATION

### Survey Background

Fundamentally, the Williamson Act is a State policy administered by local governments. Local governments are not mandated to administer the Act, but those that do have some latitude to tailor the program to suit local goals and objectives. That latitude includes being more restrictive in contract terms, payments and fees, than what is required by Williamson Act (§51240). Consequently, the Williamson Act programs found across the state often have subtle differences, reflecting the diversity among participating local governments.

In the fiscal year 2003-04 subvention application, the Department of Conservation included a county survey aimed at understanding the subtle programmatic differences across the state. The following eleven counties did not respond to the survey: Contra Costa, Lassen, Los Angeles, Mono, Orange, Sacramento, San Mateo, Santa Clara, Santa Cruz, Sierra, and Tulare.

### Survey Results

#### *Minimum Parcel Sizes*

The statutory minimum for parcel sizes is 10 acres for Prime land and 40 acres for nonprime land (§51222). Many counties have minimums for prime and nonprime land that differ from the statutory minimums. Examples of nonprime minimum parcel size variation include Butte County that has a 160-acre nonprime minimum parcel size, while Mariposa, San Luis Obispo, and Santa Barbara County all have 100-acre minimum nonprime parcel size. Monterey County has a 100-acre minimum parcel size requirement for both nonprime and prime land.

Minimum parcel sizes for Prime land varied from 5-acres in Santa Barbara and San Bernardino County, to 100 acres in Monterey and Shasta County. Local governments may allow parcels smaller than the statutory minimum for Williamson Act contracts if the Board/Counsel finds that such parcels are agriculturally viable due to unique local conditions.

#### *Minimum Contract Term*

The statutory minimum contract term is 10 years for standard Williamson Act contracts and 20 years for FSZ contracts (§51244; §51296.1). Two counties reported longer contract terms for standard contracts. Monterey and Mariposa County both have 20-year contract terms for their standard Williamson Act contracts.

### Survey Results (Continued)

#### *Minimum Cancellation Fee Penalty*

The statutory minimum for Williamson Act and FSZ cancellation fee penalty is 12.5 percent and 25 percent of the unrestricted fair market value of the subject land, respectively (§51283; §51297). Three counties reported cancellation fee penalties greater than statute minimum. Butte, Humboldt, and Merced County have all set their cancellation fee penalty for standard Williamson Act contracts at 25 percent of the unrestricted fair market value of the land.

#### *Administrative Processing Fees*

The survey asked counties to report their fees for the following administrative transactions: new enrollment, nonrenewal initiation, nonrenewal withdrawal, and cancellation petition. Comparing fees was complicated by the fact that a number of counties use formulas or charge actual administrative costs.

Fees for new enrollments of standard Williamson Act contracts range from \$5,400 (San Bernardino County) to \$100 (Madera County). The average new enrollment fee for a Williamson Act contract is around \$868. Fees for new enrollments of FSZ contracts range from \$1,845 (Humboldt County) to \$100 (Colusa and Madera County). The average new enrollment fee for a FSZ contract is about \$642.

Fees for nonrenewal initiation ranged from \$0 to \$2,015 (Humboldt County). The average nonrenewal initiation fee is about \$240.

Fees for nonrenewal withdrawal ranged from \$0 to \$1,276 (Santa Barbara County). The average nonrenewal withdrawal fee is about \$150.

Cancellation petition fees varied widely, ranging from \$0 to \$5,400 (San Bernardino County). The average cancellation petition fee is about \$960.

#### *Williamson Act Advisory Committee*

Counties and cities may appoint Williamson Act committees to advise the board or council on administration of agricultural preserves and on other matters relating to contracts (§51239). In the survey counties were asked if they had a Williamson Act advisory committee. Of the forty counties that responded to the question, twenty-two reported having a Williamson Act advisory committee.

## V. COMPLIANCE AUDITS

In 1988, Williamson Act and Open Space Subvention Act program audits were initiated for participating Williamson Act counties and cities. At that time, the Department of Conservation contracted with the Department of General Services to conduct audits of several counties. As a result of those initial audits, approximately \$550,000 in subventions was recaptured for payments made on land not eligible for subventions and for cancellation fees paid to counties but not forwarded to the State. In fiscal year 1996-97, the Department began an annual Williamson Act/Open Space Subvention Act compliance audit program through contracts with the Department of Finance. From fiscal year 1996-97 to present, the State has invested \$450,000 to conduct the annual audits. This investment has resulted in a return to the General Fund of \$1,179,163 from the recapture of subvention overpayments and unpaid contract cancellation fees.

Claiming subvention on land not eligible for payment is the most frequent cause of subvention overpayments. This includes land starting through the contract nonrenewal process, and land valued lower under Proposition 13 valuation for regular Williamson Act contracts. Another problem area is when cancellation fees are collected by local governments and not transmitted within the statutorily required timeframe to the State Controller's Office.

Besides the subventions recovered by the audits, a major benefit is the correction of procedures for cities and counties that may not have followed the Williamson Act requirements and restrictions. The audit findings provide reassurance to both local governments and the State that the provisions of statute are being followed. Since 1972, over \$600 million in State subventions have been certified to local governments to provide replacement revenues for the loss in tax revenue and administrative costs resulting from participation in the Williamson Act program. The audit program provides a valuable check to ensure that the program is administered according to statute at the local level, and to carry out the State's fiduciary responsibility for a major investment by the taxpayers of California.

- **Fiscal year 1996-97** audits of Kern, San Joaquin and Tulare Counties recaptured \$65,087 in subvention overpayments. The audit also discovered a contract violation that led to the Department's initiation of legal action to remedy the violation. The resolution of the contract enforcement action resulted in a payment of \$100,000 to the California Farmland Conservancy Program Fund, and the money was subsequently used to fund acquisition of perpetual agricultural conservation easements.
- **Fiscal year 1997-98** audits of Fresno, Kings, Stanislaus and Madera Counties resulted in the recapture of \$165,607 in subvention overpayments.
- **Fiscal year 1998-99** audits of San Luis Obispo, Riverside, Monterey and Tehama Counties resulted in the recapture of \$958,497 in subvention overpayments. Of this amount, \$911,298 was for cancellation fees collected by Riverside County but not forwarded to the State Controller's Office.
- **Fiscal year 1999-00** audits of Colusa, San Diego and Yolo Counties resulted in the recapture of \$150,406 in subvention overpayments.
- **Fiscal year 2000-01** audits of Contra Costa, Glenn, San Benito, Santa Barbara and Tuolumne Counties resulted in the recapture of \$5,000 in overpaid subventions.
- **Fiscal year 2001-02** audits of Marin, Mendocino, Placer, San Bernardino and Santa Clara Counties resulted in the recapture of \$57,980 in subvention overpayments.